

Comments of David Breninger
General Manager of the Placer County Water Agency
To the Little Hoover Commission

The following comments are submitted on behalf of the Placer County Water Agency (PCWA) by David Breninger, General Manager, in response to the letter of August 17, 2005, from James P. Mayer, Executive Director, California Little Hoover Commission regarding CALFED Bay-Delta Program governance and related issues.

Comments to the Commission's Specific Governance Questions

What functions do you believe are most important for the governance structure to provide?

CALFED's governance structure (the Bay-Delta Authority) is designed to be a consensus-based organization made up of selected stakeholders. As such, the Authority is well suited to its most important function – the coordination of scientific inquiry and communication. CALFED's benefit is in being a forum for cross-agency dialogue, understanding and coordination. This limited, but significant, role should be made clearer to the public – perhaps by renaming the "Authority" to "Coordinating Commission."

The Authority is not an organization designed to be able to weigh the tradeoffs of costs and competing beneficial uses of the State's water resources nor to make or implement financing decisions. The Authority does not adequately represent the interests of all constituents. The Authority cannot raise revenue. It does not control the numerous state and federal implementing agencies' budgets or actions.

The Authority should remain focused on its founding and primary mission: the coordination of scientific inquiry and communication.

Please describe inadequacies in CALFED's governance structure, how these inadequacies limit progress of the CALFED program, provide specific examples of how flaws in governance structure create problems and describe your recommendations for improving the CALFED governance structure.

There are two problems with the current Authority governance structure:

1) The structure is not sufficiently inclusive. Through the years of dialogue, CALFED has increasingly narrowed its focus to how to export more water from the California Delta vs. mitigating environmental conditions "in" the Delta because of such exports. PCWA agrees this is a concern but a single-minded focus on this topic by the Authority ignores other issues, potential problems and potential solutions. For example, the

Authority should be placing a high priority on understanding the source waters of the Delta, that is, the watersheds of the Sierra Nevada and lower Cascades of Northern California. Appreciation of the headwaters and watershed issues, such as the impacts of catastrophic fires, as well as consequences related to climate change, should be at the forefront of CALFED. Also, the Authority needs to understand the significance of water law assuring watershed counties certain “area of origin” water entitlements.

Recently CALFED developed a financial plan. It was a fiasco. The Authority tried to impose a water fee or tax unilaterally upon non-CALFED and non-beneficiary water purveyors. The inclusion of a broader membership of interests on the Authority might have averted this poorly thought out approach. PCWA recommends that the Authority’s finance plan remain soundly based on the principle of “beneficiary pays.” In retrospect, the negative attention the Authority attracted from a North State perspective can be seen, to a large extent, as due to the narrow composition of the Authority. Frankly, CALFED has embarked upon a very expensive mitigation program. It is apparently too expensive for CALFED beneficiaries to finance resulting in an attempt to force non-beneficiary water purveyors to pay for the fiscal shortfall. This is opposed by PCWA and others situated in Northern California.

PCWA recommends that a representative of the Sierra Nevada watershed region be added to the Authority. We further recommend that the member be a local water resource representative from the Sierra Nevada watersheds’ area of origin. Such a representative would contribute knowledge and understanding of the importance of maintaining healthy watersheds, the significance of area of origin water entitlements and adherence to a “beneficiary pay” principle.

2) CALFED is missing a higher tier of bi-partisan decision makers to implement the Authority’s recommendations. To effectively deal with water supply to two-thirds of the population of California versus a potential environmental disaster in the Delta of enormous proportions requires the full attention of the State Legislature, the Governor, the State’s Congressional delegation and the President. These elected officials represent the constituents to be affected by CALFED actions. Bi-partisan leadership is needed that can take action to determine an equitable finance plan to implement CALFED’s programs and projects.

Do you believe that the California Bay-Delta Authority should have more legal authority than it currently has over implementing agencies? If so, how would you fashion that authority?

PCWA believes that the Authority has sufficient legal authority for the function it serves.

What is your assessment of the state and federal partnership that is the basis of the CALFED program? Do you have recommendations for improving the

relationship between the state and federal entities that are needed for CALFED to succeed?

The state and federal partnership that is the basis of CALFED appears to be working but is limited by statutes that the implementing agencies, not the Authority, control their respective budgets and actions. This is not likely to change. The role of the Authority is to coordinate scientific inquiry, exchange information and provide a forum for discussing and recommending the most promising actions to achieve CALFED goals. The current and on-going cooperation of the federal and state agencies is functioning but within the limits set by state and federal statutes.

Background and Perspective

As the Little Hoover Commission reviews the Authority, PCWA offers the following background and perspective:

When the Federal government built the Central Valley Project (CVP) and the State government built the State Water Project (SWP) with reservoirs above the Delta in Northern California watersheds, and decided to place their respective pumping facilities in the extreme south Delta and built canal systems to transport water to Southern California, they made commitments, in the law, to the people of California: to only take water that is surplus to the needs of the North; and, to protect the environment of the Delta.

From the beginning of the operation of those two projects, there have been a wide variety of serious problems in using the Delta as a water transportation “hub.” Frankly, Delta water quality is naturally poor. The pumps couldn’t be in a worse location. In efforts to try to improve the water quality at the SWP and CVP pumps, substantial alterations have occurred over the decades to the natural flows of the Sacramento River and the ecosystem of the Delta. The result has fallen short of being successful. Stress on the Delta system is further exacerbated by a number of changing factors: steadily rising population in the South State needing more North State water, reductions in water supplies to Southern California from the eastern Sierras (i.e., Mono Lake) and the Colorado River (“4.4 Plan”), reduction in Delta “imports” from the Trinity River, sinking Delta islands and levees, seismic vulnerability, climate change, and rising sea level.

Many North State water purveyors enjoy an “area of origin” right to the water that flows from their respective counties’ watersheds to supply their respective water needs. This appears to not be understood or is ignored by CALFED. The state statute on area of origin relevant to North State water purveyors and those in the Sierra Nevada in particular needs to be recognized by CALFED.

CALFED needs to clearly understand the importance and significance of sustaining healthy Sierra Nevada and lower Cascade watersheds with tributaries that flow to the Delta. Catastrophic forest fires in these watersheds can adversely impair water

production (by shortening the runoff period) and increase the potential for flooding, and degrade water quality (through increased sedimentation and turbidity resulting from erosion and landslides). The result of fires in watersheds has a serious negative impact on water quality in all downstream ecosystems, reservoirs, and ultimately the Delta. Sustaining healthy watersheds in the North State can protect and maximize snow runoff and enhance water quality. Understanding the importance of avoiding or minimizing catastrophic fire in watershed translates into a direct benefit for Delta water quality.

Initially CALFED did study a few of the Sierra watersheds to begin to understand their relationship to the North State water system flowing to the Delta. The Authority funded watershed studies by partnering with local water agencies. This provided a foundation for basic information. PCWA was one such partner.

Recently, however, CALFED officials appear to have abandoned serious interest both in funding studies and in understanding how the land and water resources of the watersheds influence and are interconnected to the Delta's water supply and quality. PCWA is particularly concerned that in the recent ranking of importance of issues before the Bay-Delta Advisory Commission (meeting of August 10, 2005) and the Bay-Delta Authority (meeting of August 11, 2005), "watershed" issues were consistently given the lowest rating.

This retreat by CALFED from a watershed perspective on the source waters of the Delta is wrong. We believe it clearly reflects the absence of a representative upon the Authority of a Sierra Nevada water resource area of origin member.

When CALFED was formed, one of the founding principles was that direct beneficiaries would pay for the benefits received. This principle is not being followed and needs to be reaffirmed by the Authority. Attempts to extract money by CALFED from the North State water purveyors without any proof of benefits to be received is opposed by PCWA. CALFED needs to return to its founding principle on this issue.

In short, CALFED needs a governance structure that focuses upon ways to unite—not divide—stakeholders to work collaboratively together on water resource issues.

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